

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JENNIFER JONES,	:	
Plaintiff,	:	
	:	
v.	:	Civil No. 5:23-cv-02648-JMG
	:	
SOLID WASTE SERVICES, INC.,	:	
doing business as	:	
J.P. MASCARO & SONS,	:	
Defendant.	:	

ORDER

AND NOW, this 8th day of January, 2024, upon consideration of Plaintiff’s First Motion to Certify Class (ECF No. 21) and Defendant’s Response (ECF No. 22), **IT IS HEREBY ORDERED** that Plaintiff’s Motion (ECF No. 21) is **DENIED without prejudice**.¹

¹ The Court set a deadline for filing this Motion following the close of Phase 1 discovery with the expectation that Plaintiff would seek class certification aided by supporting evidence beyond their Complaint’s allegations. That did not occur. Plaintiff’s Motion lacks even a single citation to supporting evidence. “While the class proponent’s burden is not heavy, more than mere conjecture or conclusory allegations are required to enable a court to conclude that the class certification requirements are met.” *Muscarella v. Commonwealth of Pennsylvania*, 39 A.3d 459, 467 (Pa. Commw. Ct. 2012) (citing *Dunn v. Allegheny Cnty. Prop. Assessment Appeals & Rev.*, 794 A.2d 416, 423 (Pa. Commw. Ct. 2002)).

The primary deficiency in this Motion is that—other than a vague reference to Plaintiff’s “personal knowledge” without any citation to an affidavit, deposition, or documentation—it does nothing to advance the claim that this proposed class exists. Without even a scintilla of evidence, Plaintiff cannot meet its burden to certify its proposed class.

The Motion’s deficiency is notable considering the eagerness of its filing. Plaintiff filed this Motion more than a month before it was due and with thirty days remaining in discovery. *See* ECF No. 16, ¶ 5(d) (Scheduling Order). The Court denies the Motion without prejudice so that Plaintiff may bolster its request with evidence gleaned from discovery.

IT IS FURTHER ORDERED that Plaintiff shall file its motion for conditional certification of the FLSA collective action by **Friday, January 19, 2024**.² Failure to do so may result in the dismissal of this Plaintiff's Wage Payment and Collection Law class claims without further order from the Court.

BY THE COURT:

/s/ John M. Gallagher
JOHN M. GALLAGHER
United States District Court Judge

² Plaintiff's motion for conditional certification is six weeks overdue. *See id.* at ¶ 2. Plaintiff is reminded that the statute of limitations in a collective action is not tolled until conditional certification is granted.